

LEGISLATURE OF THE STATE OF IDAHO  
Sixty-first Legislature Second Regular Session - 2012

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 587

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO AUTHORIZATION FOR OUT-OF-STATE INSURERS; AMENDING SECTION 41-305, IDAHO CODE, TO DELETE REFERENCE TO OUT-OF-STATE INSURERS; AMENDING SECTION 41-306, IDAHO CODE, TO PROVIDE EXCEPTIONS TO CERTIFICATE OF AUTHORITY REQUIREMENTS FOR CERTAIN OUT-OF-STATE INSURERS AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 3, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-306A, IDAHO CODE, TO PROVIDE FOR INTERSTATE INSURANCE SALES, TO AUTHORIZE THE DIRECTOR TO DETERMINE IF PLANS SATISFY REQUIREMENTS, TO PROVIDE FOR LANGUAGE TO BE INCLUDED IN PLANS SOLD, TO PROVIDE FOR COMPLIANCE WITH IDAHO CODE ON PREMIUM TAX AND TO AUTHORIZE THE DEPARTMENT TO ADOPT AND PROMULGATE RULES; AMENDING CHAPTER 5, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-515, IDAHO CODE, TO DEFINE A TERM; AND PROVIDING SEVERABILITY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 41-305, Idaho Code, be, and the same is hereby amended to read as follows:

41-305. CERTIFICATE OF AUTHORITY REQUIRED. ~~(1)~~ No person shall act as an insurer and no insurer or its agents, attorneys, subscribers, or representatives shall directly or indirectly transact insurance in this state except as authorized by a subsisting certificate of authority issued to the insurer by the director, except as to such transactions as are expressly otherwise provided for in this code.

~~(2) No insurer shall from offices or by personnel or facilities located in this state solicit insurance applications or otherwise transact insurance in another state or country unless it holds a subsisting certificate of authority issued to it by the director authorizing it to transact the same kind or kinds of insurance in this state.~~

SECTION 2. That Section 41-306, Idaho Code, be, and the same is hereby amended to read as follows:

41-306. EXCEPTIONS TO CERTIFICATE OF AUTHORITY REQUIREMENT. A certificate of authority shall not be required of an insurer licensed and authorized to sell health or disability insurance in another state as defined pursuant to section 41-306A, Idaho Code, and the insurer obtains a certificate of authority pursuant to that section or with respect to the following:

(1) Investigation, settlement, or litigation of claims under its policies lawfully written in this state, or liquidation of assets and liabilities of the insurer (other than collection of new premiums), all as resulting from its former authorized operations in this state.

(2) Transactions thereunder subsequent to issuance of a policy covering only subjects of insurance not resident, located or expressly to be per-

1 formed in this state at time of issuance, and lawfully solicited, written and  
2 delivered outside this state.

3 (3) Transactions pursuant to surplus lines coverages lawfully written  
4 under chapter 12 ~~of this code~~, title 41, Idaho Code.

5 (4) Reinsurance, when transacted by an insurer duly authorized by its  
6 state of domicile to transact the kind of insurance involved.

7 (5) The continuation and servicing of life insurance or disability in-  
8 surance policies or annuity contracts remaining in force as to residents of  
9 this state if the insurer has withdrawn from the state and is not transacting  
10 new insurance therein.

11 SECTION 3. That Chapter 3, Title 41, Idaho Code, be, and the same is  
12 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
13 ignated as Section 41-306A, Idaho Code, and to read as follows:

14 41-306A. INTERSTATE INSURANCE SALES. (1) An insurer subject to the  
15 jurisdiction of another state's insurance department or insurance commis-  
16 sioner and licensed and authorized to transact health or disability insur-  
17 ance in another state may offer an individual accident and sickness insur-  
18 ance policy, as defined in section 41-515, Idaho Code, for sale in Idaho as  
19 long as that accident and sickness policy provides the mandatory coverages  
20 this title requires for Idaho-based insurers.

21 (2) The director shall issue a certificate of authority to an out-of-  
22 state insurer to sell accident and sickness insurance policies in this state  
23 as long as that insurer is licensed in another state to sell health or dis-  
24 ability insurance, remains licensed in that state to sell health or disabil-  
25 ity insurance and complies with the provisions of subsection (3) of this sec-  
26 tion. If an insurer is no longer licensed by another state, it shall be in-  
27 eligible to do business in this state and the director shall revoke its cer-  
28 tificate of authority immediately unless it obtains an independent certifi-  
29 cate of authority and is domiciled in this state and complies with the provi-  
30 sions of this title.

31 (3) In order for an out-of-state insurer to sell accident and sickness  
32 insurance policies to residents of this state, the out-of-state insurer  
33 shall file an affidavit with the director of the department of insurance  
34 indicating the following: any dispute regarding its policies, benefits  
35 or coverages purchased by Idaho residents shall be governed by Idaho law,  
36 shall be either litigated in Idaho or have an alternative dispute resolution  
37 conducted in Idaho and shall have an agent in Idaho appointed to act in its  
38 behalf. In the affidavit, the out-of-state insurer shall submit to the ju-  
39 risdiction of the department of insurance regarding any consumer issues that  
40 a policyholder may have and shall abide by any decision made by the director  
41 in that area and shall attest to the following: "I agree that the provisions  
42 of title 41, Idaho Code, apply to my company unless a statute specifically  
43 exempts my company, and I agree to pay all fees and assessments provided by  
44 law for Idaho-based insurers." The affidavit shall be signed by a corporate  
45 officer of the company.

46 (4) Insurers selling policies in Idaho pursuant to this section shall  
47 comply with the provisions of section 41-402, Idaho Code, and remit the tax  
48 as provided in that section. In addition to the premium tax, insurers sell-  
49 ing policies in Idaho pursuant to this section shall remit annually one per-

1 cent (1%) of the amount of gross direct premiums written on policies covering  
2 persons in this state to the catastrophic health care fund created pursuant  
3 to chapter 35, title 31, Idaho Code.

4 (5) The department of insurance shall promulgate, adopt and enforce  
5 such rules and such methods of administration as may be necessary or proper  
6 to carry out the provisions of this section.

7 SECTION 4. That Chapter 5, Title 41, Idaho Code, be, and the same is  
8 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
9 ignated as Section 41-515, Idaho Code, and to read as follows:

10 41-515. INDIVIDUAL ACCIDENT AND SICKNESS INSURANCE DEFINED. "Indi-  
11 vidual accident and sickness insurance" means any policy insuring against  
12 loss resulting from sickness or from bodily injury or death by accident, or  
13 both. "Individual accident and sickness insurance" shall also include com-  
14 prehensive major medical coverage for medical and surgical benefits and high  
15 deductible health plans sold or maintained under the applicable provisions  
16 of section 223 of the Internal Revenue Code.

17 SECTION 5. SEVERABILITY. The provisions of this act are hereby declared  
18 to be severable and if any provision of this act or the application of such  
19 provision to any person or circumstance is declared invalid for any reason,  
20 such declaration shall not affect the validity of the remaining portions of  
21 this act.